



INTERIOR BOARD OF INDIAN APPEALS

Three Affiliated Tribes of the Fort Berthold Reservation
v. Deputy to the Assistant Secretary - Indian Affairs (Indian Education Programs)

18 IBIA 297 (05/22/1990)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

THREE AFFILIATED TRIBES OF THE	:	Order Docketing and Dismissing Appeal
FORT BERTHOLD RESERVATION,	:	and Referring Matter to the
Appellant	:	Assistant Secretary - Indian Affairs
	:	
v.	:	
	:	
DEPUTY TO THE ASSISTANT SECRETARY -	:	Docket No. IBIA 90-86-A
INDIAN AFFAIRS/DIRECTOR (INDIAN	:	
EDUCATION PROGRAMS,	:	
Appellee	:	May 22, 1990

On May 21, 1990, the Board of Indian Appeals received a notice of appeal from the Three Affiliated Tribes of the Fort Berthold Reservation. Appellant states that it is appealing a March 30, 1990, letter of the Deputy to the Assistant Secretary - Indian Affairs/Director (Indian Education Programs), which was conveyed to appellant by an April 13, 1990, letter of the Aberdeen Area Education Program Administrator. The letters appear to concern the allowability of certain costs under a P.L. 93-638 contract.

For the reasons discussed in the Board's order of this date concerning Docket No. IBIA 90-85-A, 18 IBIA 295, the Board lacks jurisdiction over this appeal.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal from the March 30, 1990, letter of the Deputy to the Assistant Secretary - Indian Affairs/ Director (Indian Education Program) and the April 13, 1990, letter of the Aberdeen Area Education Program Administrator is dismissed for lack of jurisdiction, and this matter is referred to the Assistant Secretary - Indian Affairs.

In his consideration of this appeal, the Assistant Secretary is advised to determine whether the decision being appealed does in fact concern the allowability of costs under an existing P.L. 93-638 contract, and, if so, whether a contracting officer's decision has been issued. Under 25 U.S.C. § 450m-l(d), P.L. 93-638 contracts are subject to the Contract Disputes Act, 41 U.S.C. §§ 601-613. 41 U.S.C. § 605 requires that decisions on contract claims be issued by contracting officers. If this matter involves a contract claim and no contracting officer's decision has been issued, the matter should be remanded for issuance of a contracting officer's decision.

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Anita Vogt
Administrative Judge

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Kathryn A. Lynn
Chief Administrative Judge